

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AARON LUWISCH, et al.,

Plaintiffs,

- against -

ORDER
11-CV-4551(RRM) (MDG)

PHILADELPHIA INSURANCE COMPANIES,

Defendant.

-----X
MAUSKOPF, United States District Judge.

This is an action to recover on a commercial property insurance policy for a business interruption caused by a fire at the insured premises in July 2007. On March 2, 2012, Magistrate Judge Go issued a Report and Recommendation (the “R&R”) recommending dismissal of all claims brought by the corporate plaintiffs for failure to obtain counsel. The magistrate judge ordered the parties to file by March 19, 2012 any objections pursuant to Rule 72(b). No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, it is hereby ORDERED that all claims brought by Plaintiffs Victory Sports Arena, West Shore Tennis Club, Inc., and Frozen Ropes, LLC are DISMISSED.

Defendants have also sought leave to file a motion to dismiss this action as barred by a suit limitation clause contained in the insurance policy at issue in this case, which clause required any lawsuit under the policy to be commenced “within two years after the date on which the direct physical loss or damage occurred.” *See* Letter of Constantino P. Suriano dated 9/20/2011 (Doc. No. 3). Defendants assert that the loss occurred in 2007, and this suit commenced in 2011. In light of defendant’s request, and the dismissal of all claims brought by the corporate plaintiffs, it is hereby

FURTHER ORDERED that by April 16, 2011, the remaining plaintiff, Aaron Luwisch, proceeding *pro se*, submit a letter to the Court, not to exceed three pages, advising the Court whether he intends to continue to pursue this action and if so, setting forth the legal and factual bases upon which he intends to oppose defendant's proposed motion to dismiss. Should Plaintiff fail to comply with this Order, the Court will dismiss this action for failure to prosecute.

The Clerk of Court is directed to send a copy of this Order to plaintiff Aaron Luwisch by overnight mail at the address listed for plaintiff on the docket, and note such mailing on the docket together with the corresponding tracking number.

SO ORDERED.

Dated: Brooklyn, New York
April 9, 2012

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge